

will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of PET Film from the UAE materially injure, or threaten material injury to, the U.S. industry.

### Public Comment

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. See 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. See 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. See 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 733(f) and 777(I)(1) of the Act.

Dated: April 25, 2008.

**David M. Spooner,**  
Assistant Secretary for Import  
Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-570-924)

#### **Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** May 5, 2008.

**SUMMARY:** We preliminarily determine that polyethylene terephthalate film, sheet, and strip ("PET Film") from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination. We will make our final determination 75 days after the date of publication of this preliminary determination, pursuant to section 735(a) of the Act.

**FOR FURTHER INFORMATION CONTACT:** Erin Begnal or Toni Dach, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-1442 or 482-1655, respectively.

#### **SUPPLEMENTAL INFORMATION:**

##### **Initiation**

On September 28, 2007, the Department of Commerce ("Department") received petitions on imports of PET Film from Brazil, the PRC, Thailand, and the United Arab Emirates ("UAE") ("petitions") filed in proper form by Dupont Teijin Films, Mitsubishi Polyester Film Inc., SKC Inc., and Toray Plastics (America) Inc., (collectively, "Petitioners"). See *Antidumping Duty Petition: Polyethylene Terephthalate Film, Sheet,*

*and Strip (PET Film) from Brazil, Republic of China, Thailand, and the United Arab Emirates* (September 28, 2007). These investigations were initiated on October 18, 2007. See *Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Initiation of Antidumping Duty Investigations*, 72 FR 60801 (October 26, 2007) ("Initiation Notice").

On November 13, 2007, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Brazil, the PRC, Thailand, and UAE of PET Film. The ITC's determination was published in the **Federal Register** on November 30, 2007. See *Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates*, 72 FR 67756 (November 30, 2007); see also *Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates: Investigation Nos. 731-TA-1131-1134 (Preliminary)*, Publication 3962 (November 2007).

##### **Scope Comments**

In accordance with the preamble to our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

On November 15, 2007, Avery Dennison requested that the Department find that "release liner," a PET Film product treated on one or both sides with a specially-cured silicon coating of less than 0.00001 inches, is outside the scope of these investigations. Petitioners filed a submission objecting to Avery Dennison's request on November 29, 2007; Petitioners re-submitted their objections with amended bracketing on December 14, 2007, and the document was accepted for the record on that date. Petitioners argue that release liner is "PET Film that clearly falls within the scope of these investigations." See Petitioners' December 14, 2007, submission at 1 and 2. Avery Dennison responded to Petitioners' comments on February 1, 2008.

In accordance with section 731(i) of the Act, we have determined that the descriptions of the merchandise

contained in the petition and in our *Initiation Notice* support the conclusion that release film is of the same class or kind of merchandise covered by the scope of the proposed antidumping duty order. *See also* generally 19 CFR 351.225(k)(1). The product descriptions in the petition and in the Department's *Initiation Notice* specifically exclude finished films with a "performance enhancing resinous or inorganic layer of more than 0.00001 inches thick." There is nothing in the proposed scope language of either the petition or our *Initiation Notice* that excludes products bearing a performance enhancing resinous or inorganic layer of less than 0.00001 inches from the scope of the order. Moreover, there is no language in either the proposed scope language of the petition or our *Initiation Notice* that limits the scope of the investigation to "PET base film," (*i.e.*, PET Film prior to the application of in-line coatings), as Avery Dennison suggests. In addition, release liner shares the chemical composition of PET Film described in the proposed scope of the petition and *Initiation Notice*.

One of the purposes of a less than fair value investigation is to decide the merchandise specifically covered by the scope of the ultimate antidumping duty order. Based upon the foregoing, we have preliminarily determined that release film is of the same class or kind of merchandise as that described in the petition and in the Department's *Initiation Notice*. Thus, we have determined that release film is covered by the scope of the AD investigation of PET Film from the PRC. For a full discussion of this issue, see the memorandum titled "Antidumping Duty Investigations on Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates," from Michael J. Heaney, Senior Case Analyst, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, dated April 25, 2008, issued concurrently with this notice.

#### Respondent Selection

In the *Initiation Notice*, the Department stated that it expected to select respondents based on U.S. Customs and Border Protection ("CBP") data of U.S. imports under Harmonized Tariff Schedule of the United States ("HTSUS") number 3920.62.00.90. *See Initiation Notice*, 72 FR at 60806. On November 16, 2007, the Department placed the CBP information on the record of the investigation, and set aside a period for interested parties to submit comments on the CBP information. On

November 30, 2007, the Department received comments on respondent selection from Petitioners and DuPont-Hongji Films Foshan Co., Ltd. ("DPHJ"), a manufacturer of subject merchandise. On December 3, 2007, and December 11, 2007, the Department received additional comments on respondent selection from Petitioners and DPHJ, respectively. On December 26, 2007, the Department selected Jiangyin Jinzhongda New Material Co., Ltd. ("JJ New Material") and Dupont Teijin Films China Limited ("DTFC") as mandatory respondents. *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration through James C. Doyle, Director, AD/CVD Operations, Office 9 and Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9 from Erin Begal, Senior International Trade Analyst, regarding, "Selection of Respondents for the Antidumping Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," dated December 26, 2007 ("Respondent Selection Memo").

#### Separate Rates Applications

Between December 14, 2007, and December 19, 2007, the Department received separate rate applications from eight companies, including one mandatory respondent, DTFC, and its affiliated producers DPHJ and DuPont Teijin Hongji Films Ningbo Co., Ltd. ("DTHFN"). We issued deficiency questionnaires to Fuwei Films (Shandong) Co., Ltd. ("Fuwei Films"), Shaoxing Xiangyu Green Packing Co., Ltd. ("Green Packing"), Tianjin Wanhua Co., Ltd. ("Tianjin Wanhua"), Sichuan Dongfang Insulating Material Co., Ltd. ("Sichuan Dongfang"), and Shanghai Uchem Co., Ltd. ("Shanghai Uchem") (collectively, "SR Applicants") on March 14, 2008. We issued an additional deficiency questionnaire to Tianjin Wanhua on March 21, 2008. We received a response from Tianjin Wanhua on March 21, 2008, March 28, 2008, and April 3, 2008. We also received responses from Fuwei Films, Green Packing, Sichuan Dongfang, and Shanghai Uchem on March 28, 2008.

#### Product Characteristics & Questionnaires

On October 30, 2007, the Department asked all parties in this investigation and in the concurrent antidumping duty investigations of PET Film from Brazil, Thailand, and the UAE, for comments on the appropriate product characteristics for defining individual products. In addition, the Department requested all parties in this

investigation and in the concurrent antidumping duty investigations of PET Film from Brazil, Thailand, and the UAE to submit comments on the appropriate model matching methodology. *See* Letter from Robert James, Program Manager, AD/CVD Enforcement 7, dated October 30, 2007. We received comments from Petitioners on November 6, 2007, requesting that the Department include the grade of PET Film in the model match criteria. Additionally, Petitioners requested that the Department include a field identifying whether the PET Film has been coextruded. In its December 27, 2007, questionnaire, the Department requested that the respondent report the grade of the PET Film, but did not request a field identifying whether the PET Film is coextruded. For purposes of this preliminary determination, the Department has determined that it is unnecessary to change the proposed product characteristics with regard to coextrusion. For purposes of distinguishing subject merchandise, the Department will take into account the grade of the PET Film, as advocated by Petitioners in their submission. The Department also received untimely filed comments from the BOPET Association of China Plastics Processing Industry Association on November 30, 2007.<sup>1</sup>

On December 27, 2007, the Department issued to DTFC and JJ New Material its sections A, C, D, and E questionnaire,<sup>2</sup> which included product characteristics used in the designation of CONNUMs and assigned to the merchandise under consideration. On January 22, 2008, the Department placed on the record of the investigation an email response from JJ New Material, indicating that it would not respond to the Department's questionnaire and would not participate in the investigation. Between January 11, 2008, and February 8, 2008, the Department received section A, C, and D questionnaire responses from the DuPont Group.<sup>3</sup> The DuPont Group was

<sup>1</sup> Because the BOPET Association of China Plastics Processing Industry Association's comments were submitted after the Department's deadline for submission, the Department was unable to consider these comments for defining product characteristics.

<sup>2</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section C requests a complete listing of U.S. sales. Section D requests information on factors of production, and Section E requests information on further manufacturing.

<sup>3</sup> Although the original questionnaire was issued to DTFC, which was selected as a mandatory respondent, we received questionnaire responses on

not required by the Department to submit a Section E response. The Department also issued supplemental questionnaires to the DuPont Group and received responses between February 25, 2008, and March 14, 2008. Petitioners submitted deficiency comments on the section C and D questionnaire responses of the DuPont Group on February 19, 2008.

#### Surrogate Country

On January 18, 2008, the Department determined that India, Indonesia, the Philippines, Colombia, and Thailand are countries comparable to the PRC in terms of economic development. See Letter to All Interested Parties, from Scot T. Fullerton, Program Manager, Office 9, AD/CVD Operations, regarding “Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China,” dated January 18, 2008, attaching Memorandum to Scot T. Fullerton, Program Manager, Office 9, AD/CVD Operations, from Carole Showers, Acting Director, Office of Policy, regarding “Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China (PRC): Request for List of Surrogate Countries,” dated January 16, 2008.

On January 18, 2008, the Department requested comments on surrogate country selection from the interested parties in this investigation. Petitioners and the DuPont Group submitted surrogate country comments on February 1, 2008. No other interested parties commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, see “Surrogate Country” section below.

#### Surrogate Value Comments

On March 19, 2008, Petitioners and the DuPont Group submitted comments on surrogate information with which to value the factors of production in this proceeding.

#### Targeted Dumping

On March 24, 2008, Petitioners filed an allegation of targeted dumping by the DuPont Group based on a pattern of export prices for comparable merchandise that differ significantly over periods of time. Petitioners also submitted the programming code they used in their targeted dumping allegations on March 24, 2008. On April 9, 2008, Petitioners submitted a letter

behalf of DTFC, the exporter of the subject merchandise, and its affiliated producers, DPHJ and DTHFN, collectively the “DuPont Group.”

withdrawing their targeted dumping allegation.

#### Postponement of Preliminary Determination

On January 23, 2008, Petitioners made a timely request, pursuant to section 733(c)(1)(A) of the Act, for a 50-day postponement of the preliminary determinations with respect to Brazil, the People’s Republic of China, Thailand, and the United Arab Emirates. See also 19 CFR 351.205(e). The Department published a postponement of the preliminary determination on February 11, 2008. See *Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People’s Republic of China, Thailand, and the United Arab Emirates: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 73 FR 7710 (February 11, 2008).

#### Period of Investigation

The period of investigation (“POI”) is January 1, 2007, through June 30, 2007. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, September, 2007. See 19 CFR 351.204(b)(1).

#### Scope of Investigation

The products covered by this investigation are all gauges of raw, pre-treated, or primed PET Film, whether extruded or co-extruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET Film is classifiable under subheading 3920.62.00.90 of the HTSUS. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

#### Non-Market-Economy Country

For purposes of initiation, Petitioners submitted LTFV analyses for the PRC as a non-market economy (“NME”). See *Initiation Notice*, 73 FR at 60804. The Department considers the PRC to be a NME country. See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People’s Republic of China*, 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People’s*

*Republic of China*, 72 FR 60632 (October 25, 2007). In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. No party has challenged the designation of the PRC as an NME country in this investigation. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

#### Surrogate Country

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs it to base normal value, in most circumstances, on the NME producer’s factors of production (“FOP”) valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the “Normal Value” section below.

The Department’s practice with respect to determining economic comparability is explained in *Policy Bulletin 04.1*,<sup>4</sup> which states that “Per capita GNI<sup>5</sup> is the primary basis for determining economic comparability.” The Department considers the five countries identified in its Surrogate Country List as “equally comparable in terms of economic development.” See *Policy Bulletin 04.1* at 2. Thus, we find that India, Indonesia, the Philippines, Colombia, and Thailand are all at an economic level of development equally comparable to that of the PRC.

Second, *Policy Bulletin 04.1* provides some guidance on identifying comparable merchandise and selecting a producer of comparable merchandise. Based on the data provided by Petitioners, we find that India is a producer of identical merchandise. See Petitioners’ February 1, 2008, Comments on Surrogate Country at 2. Petitioners

<sup>4</sup> See *Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process*, (March 1, 2004), (“Policy Bulletin 04.1”) available at <http://ia.ita.doc.gov/policy/bull04-1.html>.

<sup>5</sup> GNI stands for gross national income, which comprises GDP plus net receipts of primary income (compensation of employees and property income) from nonresident sources. See, e.g., <http://www.facts.com/biz10/globalworldincomepercapita.htm>.

provided a list of Indian companies that produce PET Film. *Id.* Additionally, Petitioners submitted on the record of the investigation worldwide export data for PET Film, detailed in the *ITC Sunset Review of PET Film from India and Taiwan*, Prehearing Report to the Commission on Investigation Nos. 701-TA-415 and 731-TA-933 and 934 (Review) (January 29, 2008), Tables IV-8 and IV-10. See Petitioners' February 1, 2008, Comments on Surrogate Country at Attachment I. Because the Department was unable to find production data, we are relying on export data as a substitute for overall production data in this case. Of the five countries listed in the Surrogate Country List, only three countries, India, Thailand, and Indonesia are exporters of PET Film. *Id.* Consequently, at this time, the Philippines and Colombia are not being considered as appropriate surrogate countries for the PRC because they are not exporters of PET Film. Moreover, India, Thailand, and Indonesia are significant producers of identical merchandise. Specifically, during 2006 India exported 95,925,000 pounds of identical merchandise, while Thailand exported 75,447,000 pounds and Indonesia exported 67,723,000 pounds. *Id.*

With respect to data considerations in selecting a surrogate country, it is the Department's practice that, ". . . if more than one country has survived the selection process to this point, the country with the best factors data is selected as the primary surrogate country." See *Policy Bulletin 04.1* at 4. Currently, the record contains surrogate factor value data, including possible surrogate financial statements, only from India.

Thus, the Department is preliminarily selecting India as the surrogate country on the basis that: (1) it is at a similar level of economic development to the PRC, pursuant to 773(c)(4) of the Act; (2) it is a significant producer of identical merchandise; and (3) we have reliable data from India that we can use to value the factors of production. Thus, we have calculated normal value using Indian prices when available and appropriate to value DTFC's affiliated producers' factors of production. See Memorandum to the File through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Erin Begnal, Senior International Trade Analyst, AD/CVD Operations, Office 9, regarding "Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Selection of Factor Values," dated April 25, 2008 ("Surrogate Value Memorandum").

In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an antidumping investigation, interested parties may submit publicly available information to value the factors of production within 40 days after the date of publication of the preliminary determination.<sup>6</sup>

#### Affiliation

We preliminarily find the DuPont Group, comprised of DTFC, DPHJ, and DTHFN, to be affiliated parties within the meaning of section 771(33)(E) of the Act, due to common ownership. Specifically, DTFC is an owner of DPHJ, and DPHJ and DTFC are owners of DTHFN. See DTFC's December 17, 2007, Separate Rate Application at Exhibit 12, DPHJ's December 17, 2007, Separate Rate Application at 18; DTHFN's December 17, 2007, Separate Rate Application at 18, and the DuPont Group's January 11, 2008, Section A response at Exhibit A-3.

#### Separate Rates

Additionally, in the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in NME investigations. See *Initiation Notice*, 72 FR at 60804-60805. The process requires exporters and producers to submit a separate-rate status application. The Department's practice is discussed further in *Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries*, (April 5, 2005), ("*Policy Bulletin 05.1*") available at <http://ia.ita.doc.gov/policy/bull05-1.pdf>.<sup>7</sup> However, the standard

<sup>6</sup>In accordance with 19 CFR 351.301(c)(1), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>7</sup>The *Policy Bulletin 05.1*, states: "{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies

for eligibility for a separate rate (which is whether a firm can demonstrate an absence of both *de jure* and *de facto* governmental control over its export activities) has not changed.

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. As discussed fully below, DTFC and the SR Applicants have provided company-specific information to demonstrate that they operate independently of *de jure* and *de facto* government control, and therefore satisfy the standards for the assignment of a separate rate.

We have considered whether each PRC company that submitted a complete application is eligible for a separate rate. The Department's separate-rate test is not concerned, in general, with macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998). The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61758 (November 19, 1997), and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each

both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation." See *Policy Bulletin 05.1* at 6.

entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (“*Sparklers*”), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (“*Silicon Carbide*”). In accordance with the separate-rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities. Additionally, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.

### Wholly Foreign-Owned

In its separate rate application, DTFC<sup>8</sup> reported that it is wholly foreign-owned and incorporated in Hong Kong. Additionally, Fuwei Films, a separate rate applicant, reported that it is wholly foreign-owned in its separate-rate application. Therefore, because there is no PRC ownership of DTFC and Fuwei Films, *i.e.*, they are wholly foreign-owned, and we have no evidence indicating that they are under the control of the PRC, a separate rates analysis is not necessary to determine whether these companies are independent from government control. See *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71104–05 (December 20, 1999) (where the respondent was wholly foreign-owned, and thus, qualified for a separate rate). Accordingly, we have preliminarily granted a separate rate to DTFC and Fuwei Films.

### Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese-owned Companies

Certain companies stated that they are either joint ventures between Chinese and foreign companies or are wholly

Chinese-owned companies (collectively “PRC SR Applicants”). Therefore, the Department must analyze whether these respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

#### 1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589.

The evidence provided by the PRC SR Applicants – Green Packing, Tianjin Wanhua, Sichuan Dongfang, and Shanghai Uchem – supports a preliminary finding of *de jure* absence of governmental control based on the following: 1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; 2) there are applicable legislative enactments decentralizing control of the companies; and 3) and there are formal measures by the government decentralizing control of companies. See, *e.g.*, Shanghai Uchem Co., Ltd.'s February 11, 2008, Separate Rate Application (“Shanghai Uchem SRA”) and Shaoxing Xiangyu Green Packing Co., Ltd.'s December 14, 2007, Separate Rate Application (“Green Packing SRA”).

#### 2. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586–87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22544–22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in

determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

We determine that, for the PRC SR Applicants, the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing the following: 1) each exporter sets its own export prices independent of the government and without the approval of a government authority; 2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; 3) each exporter has the authority to negotiate and sign contracts and other agreements; and 4) each exporter has autonomy from the government regarding the selection of management. See, *e.g.*, Shanghai Uchem SRA and Green Packing SRA.

Therefore, the evidence placed on the record of this investigation by the PRC SR Applicants demonstrates an absence of *de jure* and *de facto* government control with respect to each exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. See Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Toni Dach, International Trade Analyst, AD/CVD Operations, Office 9, regarding “Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Separate Rates Memorandum,” dated April 25, 2008. As a result, for the purposes of this preliminary determination, we have granted a separate company-specific rate to DTFC. Additionally, we have granted the SR Applicants a weighted-average margin for the purposes of this preliminary determination.

### Application of Facts Available Section

776(a)(1) and (2) of the Act provides that the Department shall apply “facts otherwise available” if, *inter alia*, necessary information is not on the record or an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be

<sup>8</sup>DTFC's affiliated producers, DPHJ and DTHFN, submitted timely separate applications. DPHJ and DTHFN stated that during the POI, they sold the subject merchandise through their affiliated Hong Kong exporter, DTFC, who then resold the merchandise to the United States through its U.S. affiliate. Additionally, both DPHJ and DTHFN stated that neither company exported directly to the U.S. affiliate or to any unaffiliated U.S. customers directly. Therefore, we are considering DTFC as the exporter of the subject merchandise, and we did not consider the separate rate status of DPHJ and DTHFN on an individual basis.

verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information supplied if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.<sup>9</sup>

#### Application of Total Adverse Facts Available

#### The PRC-Wide Entity

On December 26, 2007, the Department selected JJ New Material as one of the mandatory respondents, and on December 27, 2007, we issued our questionnaire to JJ New Material. On January 22, 2008, the Department placed on the record of the investigation an email response from JJ New Material, indicating that it would not respond to the Department's questionnaire and would not participate in the investigation. Thus, there is no information on the record of this investigation with respect to JJ New Material. Because JJ New Material was selected as a mandatory respondent and

failed to demonstrate its eligibility for separate-rate status, it remains subject to this investigation as part of the PRC-wide entity.

Pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, we find that it is appropriate to apply a dumping margin for the PRC-wide entity using the facts otherwise available on the record, because the PRC-wide entity (including JJ New Material) withheld information requested by the Department and impeded the proceeding. Specifically, the PRC-wide entity failed to respond to the Department's questionnaires and withheld or failed to provide information in a timely manner or in the form or manner requested by the Department. Thus, the PRC-wide entity impeded the proceeding. Additionally, because this party failed to cooperate by refusing to respond to our requests for information, we find an adverse inference is appropriate pursuant to section 776(b) of the Act for the PRC-wide entity.

#### Selection of the Adverse Facts Available Rate

Because the PRC-wide entity failed to respond to our request for information, it has failed to cooperate by not acting to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate pursuant to section 776(b) of the Act for the PRC-wide entity.

Further, section 776(b) of the Act authorizes the Department to use as adverse facts available ("AFA") information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse so "as to effectuate the purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."<sup>10</sup> Moreover, the Department will select a rate that ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."<sup>11</sup>

<sup>10</sup> See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

<sup>11</sup> See Statement of Administrative Action, accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) ("SAA") at 870. See also *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005).

It is the Department's practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation.<sup>12</sup> As AFA, we have preliminarily assigned to the PRC-wide entity a rate of 76.72 percent, the highest calculated rate from the petition. The Department preliminarily determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA. The Department's reliance on the petition rate to determine an AFA rate is subject to the requirement to corroborate secondary information.<sup>13</sup>

#### Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as "information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise."<sup>14</sup> The SAA explains that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* The SAA also explains that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.<sup>15</sup>

<sup>12</sup> See, e.g., *Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People's Republic of China*, 73 FR 6479, 6481 (February 4, 2008).

<sup>13</sup> See the "Corroboration" section below.

<sup>14</sup> See SAA at 870.

<sup>15</sup> See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan: Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Final Results of Antidumping Duty Administrative Reviews and Termination in Part.*, 62 FR 11825 (March 13, 1997).

<sup>9</sup> See 19 CFR 351.308(c).

The AFA rate that the Department used is from the petition.<sup>16</sup> Petitioners' methodology for calculating the export price ("EP") and NV in the petition is discussed in the initiation notice.<sup>17</sup> To corroborate the AFA margin we have selected, we compared that margin to the margins we found for the respondent. We found that the margin of 76.72 percent has probative value because it is in the range of margins we found for the cooperating mandatory respondent. Accordingly, we find that the rate of 76.72 percent is corroborated within the meaning of section 776(c) of the Act.

Consequently, we are applying 76.72 percent as the single antidumping rate to the PRC-wide entity. The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from DTFC, and the separate rate applicants receiving a separate rate.

#### Margin for the Separate Rate Applicants

The Department received timely and complete separate rates applications from the SR Applicants, who are all exporters of PET Film from the PRC, which were not selected as mandatory respondents in this investigation. Through the evidence in their applications, these companies have demonstrated their eligibility for a separate rate, as discussed above. Consistent with the Department's practice, as the separate rate, we have established a margin for the SR Applicants based on the rate we calculated for the cooperating mandatory respondent, DTFC.<sup>18</sup> Companies receiving this rate are identified by name in the "Suspension of Liquidation" section of this notice.

#### Date of Sale

Section 351.401(i) of the Department's regulations states that, "{i}n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business." However, the

Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. See 19 CFR 351.401(i); see also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090–1093 (CIT 2001) ("*Allied Tube*"). The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms. In *Allied Tube*, the Court of International Trade ("CIT") noted that a "party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to satisfi{y} the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale." *Allied Tube* 132 F. Supp. 2d at 1090 (quoting 19 CFR 351.401(i)). In order to simplify the determination of date of sale for both the respondent and the Department and in accordance with 19 CFR 351.401(i), the date of sale will normally be the date of the invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, unless satisfactory evidence is presented that the exporter or producer establishes the material terms of sale on some other date. In other words, the date of the invoice is the presumptive date of sale, although this presumption may be overcome. For instance, in *Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan*, 61 FR 14064, 14067 (March 29, 1996), the Department used the date of the purchase order as the date of sale because the terms of sale were established at that point.

After examining the questionnaire responses and the sales documentation that the DuPont Group placed on the record, we preliminarily determine that invoice date is the most appropriate date of sale for all CEP sales made by DTFC. See DuPont Group February 8, 2008, Section C questionnaire response at C–13 and March 17, 2008, supplemental response at C–3–4.

#### Fair Value Comparisons

To determine whether sales of PET Film to the United States by DTFC were made at less than fair value, we compared the constructed export price ("CEP") to normal value ("NV"), as described in the "U.S. Price," and "Normal Value" sections of this notice.

#### U.S. Price

In accordance with section 772(b) of the Act, we based the U.S. price on CEP

because all of these sales were first made to unaffiliated U.S. customers by DTFC's U.S. affiliate. In accordance with section 772(c)(2)(A) of the Act, we calculated CEP by deducting, where applicable, the following expenses from the gross unit price charged to the first unaffiliated customer in the United States: foreign movement expenses, international freight, discounts, and United States movement expenses. Further, in accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), where appropriate, we deducted from the starting price the following selling expenses associated with economic activities occurring in the United States: credit expenses, direct selling expenses, and indirect selling expenses. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit. Where foreign movement or international ocean freight was provided by PRC service providers or paid for in Renminbi ("RMB"), we valued these services using surrogate values (see "Factors of Production" section below for further discussion).

For a complete discussion of the calculations of the U.S. price for DTFC, see Memorandum to the File, through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Erin Begnal, Senior International Trade Analyst, AD/CVD Operations, Office 9, regarding "Program Analysis for the Preliminary Determination of Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," dated April 25, 2008 ("*DTFC Analysis Memorandum*").

#### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOP because the presence of government controls on various aspects of non-market economies renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

#### Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by DTFC's affiliated producers for the POI. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values (except as

<sup>16</sup> See "Antidumping Duty Investigation Initiation Checklist: Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China" at 9. See also *Initiation Notice*, 72 FR at 60806.

<sup>17</sup> See *Initiation Notice*, 72 FR at 60803-60804 and 60806.

<sup>18</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

discussed below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to the Indian surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407–1408 (Fed. Cir. 1997). A detailed description of all surrogate values used for DTFC can be found in the Surrogate Value Memorandum and DTFC Analysis Memorandum. Additionally, for detailed descriptions of all actual values used for market–economy inputs, see DTFC Analysis Memorandum dated April 25, 2008.

For this preliminary determination, in accordance with the Department's practice, we used data from the Indian Import Statistics and other publicly available Indian sources in order to calculate surrogate values for DTFC's affiliated producers' FOPs (direct materials, energy, and packing materials) and certain movement expenses. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, surrogate values which are non–export average values, most contemporaneous with the POI, product–specific, and tax–exclusive. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004). The record shows that data in the Indian Import Statistics, as well as those from the other Indian sources, represent data that are contemporaneous with the POI, product–specific, and tax–exclusive. In those instances where we could not obtain publicly available information contemporaneous to the POI with which to value factors, we adjusted the surrogate values using, where appropriate, the Indian Wholesale Price

Index (“WPI”) as published in the International Financial Statistics of the International Monetary Fund.

Furthermore, with regard to the Indian import–based surrogate values, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non–industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 7 (“CTVs from the PRC”). Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized. See H.R. Rep. 100–576 at 590 (1988). Rather, the Department bases its decision on information that is available to it at the time it makes its determination. Therefore, we have not used prices from these countries either in calculating the Indian import–based surrogate values or in calculating market–economy input values. In instances where a market–economy input was obtained solely from suppliers located in these countries, we used Indian import–based surrogate values to value the input. See *Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From The People's Republic of China*, 67 FR 6482 (February 12, 2002), and accompanying Issues and Decision Memorandum at Comment 1. Additionally, we disregarded prices from NME countries. Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.

DTFC reported that its affiliated producers purchased an input, which was consumed in the production of the merchandise under review, from a market economy (“ME”) supplier and paid for in a market economy currency. Pursuant to 19 CFR 351.408(c)(1), the Department normally will accept input prices to value the factors of production of inputs purchased from a ME supplier

and paid for in a ME currency. Furthermore, consistent with the Department's stated policy reflected in *Antidumping Methodologies: Market Economy Inputs, Expected Non–Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716 (October 19, 2006) (“2006 Statement of Policy”), when a sufficient proportion of an input is purchased from a market economy, the Department will use the reported market economy prices to value that input when the item was paid for in a market economy currency. For purposes of the preliminary determination, we have determined that DTFC's reported market economy purchases accounted for a significant portion of total purchases of that input and, therefore, have used the reported purchase prices to value the input in the Department's normal value calculation. See DTFC Analysis Memorandum.

The Department used the Indian Import Statistics to value the raw material and packing material inputs that DTFC's affiliated producers used to produce the subject merchandise during the POI, except where listed below.

For direct, indirect, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression–based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in January 2007, <http://ia.ita.doc.gov/wages/index.html>. The source of these wage–rate data on the Import Administration's web site is the Yearbook of Labour Statistics 2004, ILO (Geneva: 2004), Chapter 5B: Wages in Manufacturing. Because this regression–based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent. See Surrogate Value Memorandum.

To value factory overhead, selling, general, and administrative expenses, and profit, we averaged the audited 2006–2007 financial statements from Jindal Poly Films Limited, Garware Polyester Limited, Polyplex Corporation Ltd., and UFlex Limited, four large producers of PET Film in India.

For a detailed discussion of all surrogate values used for this preliminary determination, see Surrogate Values Memorandum.

#### Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

**Verification**

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

**Combination Rates**

In the *Initiation Notice*, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. *See*

*Initiation Notice*, 72 FR at 60806. This practice is described in *Policy Bulletin 05.1*, available at <http://ia.ita.doc.gov/>.

**Preliminary Determination**

The weighted-average dumping margins are as follows:

PET FILM FROM THE PRC

Exporter	Producer	Weighted-Average Margin
DuPont Teijin Films China Ltd. ....	DuPont Hongji Films Foshan Co. Ltd.	46.82%
DuPont Teijin Films China Ltd. ....	DuPont Teijin Hongji Films Ningbo Co., Ltd.	46.82%
Fuwei Films (Shandong) Co., Ltd. ....	Fuwei Films (Shandong) Co., Ltd.	46.82%
Shaoxing Xiangyu Green Packing Co., Ltd. ....	Shaoxing Xiangyu Green Packing Co., Ltd.	46.82%
Sichuan Dongfang Insulating Material Co., Ltd. ....	Sichuan Dongfang Insulating Material Co., Ltd.	46.82%
Tianjin Wanhua Co., Ltd. ....	Tianjin Wanhua Co., Ltd.	46.82%
Shanghai Uchem Co., Ltd. ....	Sichuan Dongfang Insulating Material Co., Ltd.	46.82%
Shanghai Uchem Co., Ltd. ....	Shanghai Xishu Electric Material Co., Ltd.	46.82%
PRC-wide (including Jiangyin Jinzhongda New Material Co., Ltd.) .....		76.72%

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of PET Film from the PRC as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption from DTFC, Fuwei Films, Green Packing, Tianjin Wanhua, Sichuan Dongfang, Shanghai Uchem, and the PRC-wide entity on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as indicated above.

**International Trade Commission Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at less than fair value. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PET Film, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

**Public Comment**

Case briefs or other written comments may be submitted to the Assistant

Secretary for Import Administration no later than seven days after the date of the final verification report is issued in this proceeding and rebuttal briefs limited to issues raised in case briefs no later than five days after the deadline date for case briefs (*see* 19 CFR 351.309(c)(i) and (d)). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, and if requested, we will hold a public hearing, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing shortly after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Ave, NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on

arguments included in that party's rebuttal brief.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: April 25, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-9845 Filed 5-2-08; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

(A-351-841)

**Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from Brazil**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** June 5, 2008.

**SUMMARY:** The U.S. Department of Commerce (the Department) preliminarily determines that polyethylene terephthalate film, sheet, and strip (PET film) from Brazil is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Tariff Act). The estimated margins of sales at LTFV are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination. Accordingly, we will make our final determination not later than 75 days after the signature date of